

## Office of the Secretary, Interior

## § 4.604

controls or owns a majority of the voting shares or other interest of the applicant; or

(2) Any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest.

*Demand* means the express demand of the Department or other agency that led to the adversary adjudication, but does not include a recitation by the Department or other agency of the maximum statutory penalty:

(1) In the administrative complaint; or

(2) Elsewhere when accompanied by an express demand for a lesser amount.

*Department* means the Department of the Interior or the component of the Department that is a party to the adversary adjudication (e.g., Bureau of Land Management).

*Final disposition* means the date on which either of the following becomes final and unappealable, both within the Department and to the courts:

(1) A decision or order disposing of the merits of the proceeding; or

(2) Any other complete resolution of the proceeding, such as a settlement or voluntary dismissal.

*Other agency* means any agency of the United States or the component of the agency that is a party to the adversary adjudication before the Office of Hearings and Appeals, other than the Department of the Interior and its components.

*Party* means a party as defined in 5 U.S.C. 551(3).

*Position of the Department or other agency* means:

(1) The position taken by the Department or other agency in the adversary adjudication; and

(2) The action or failure to act by the Department or other agency upon which the adversary adjudication is based.

*Proceeding* means an adversary adjudication as defined in this section.

*You* means a party to an adversary adjudication.

### § 4.603 What proceedings are covered by this subpart?

(a) The Act applies to adversary adjudications conducted by the Office of Hearings and Appeals, including pro-

ceedings to modify, suspend, or revoke licenses if they are otherwise adversary adjudications.

(b) The Act does not apply to:

(1) Other hearings and appeals conducted by the Office of Hearings and Appeals, even if the Department uses procedures comparable to those in 5 U.S.C. 554 in such cases;

(2) Any proceeding in which the Department or other agency may prescribe a lawful present or future rate; or

(3) Proceedings to grant or renew licenses.

(c) If a hearing or appeal includes both matters covered by the Act and matters excluded from coverage, any award made will include only fees and expenses related to covered issues.

### § 4.604 When am I eligible for an award?

(a) To be eligible for an award of attorney fees and other expenses under the Act, you must:

(1) Be a party to the adversary adjudication for which you seek an award; and

(2) Show that you meet all conditions of eligibility in this section.

(b) You are an eligible applicant if you are any of the following:

(1) An individual with a net worth of \$2 million or less;

(2) The sole owner of an unincorporated business who has a net worth of \$7 million or less, including both personal and business interests, and 500 or fewer employees;

(3) A charitable or other tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with 500 or fewer employees;

(4) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) with 500 or fewer employees;

(5) Any other partnership, corporation, association, unit of local government, or organization with a net worth of \$7 million or less and 500 or fewer employees; or

(6) For purposes of § 4.605(c), a small entity as defined in 5 U.S.C. 601(6).

(c) For the purpose of eligibility, your net worth and the number of your